

Planning Department

TOWN OF ACTON
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INTERDEPARTMENTAL COMMUNICATION

To: Don P. Johnson, Town Manager **Date:** March 29, 2005
From: Roland Bartl, AICP, Town Planner *R.B.*
Subject: Restaurant / Site Plan Special Permit Application #03/03/05 – 401
"Not Your Average Joes, Inc. – 301 Main Street"

I have reviewed the application materials and can offer the following comments:

1. Parking might be the first concern regarding this application. Compared with the previous retail uses in the 6,103 sq. ft. building space, the proposed restaurant would increase the needed parking spaces by 5 if this were a stand-alone building. However, since the proposed restaurant is located in a shopping center, the regulatory parking requirement remains constant. The application contains documentation on the number of parking spaces on the site, which exceeds the number required under the zoning bylaw. Day to day, a successful restaurant is likely to draw in more customers to the plaza than the somewhat lackluster attempts at retail stores in recent years. This will increase congestion in the front parking lot as customers will first be looking for a space right in front of the establishment. Eventually, they will find parking spaces on the north side of the building.
2. I have reviewed the trip generation analysis by Rizzo. Because our ITE manual is one edition older than what Rizzo used, the numbers are different. Nevertheless, I can confirm the conclusion that none of the traffic study requirements in the site plan rules and regulations are triggered.

Cc: Garry Rhodes, Building Commissioner
Planning Board
EDC

INTERDEPARTMENTAL COMMUNICATION
BOARD OF SELECTMEN'S OFFICE


TO: Building, Planning, Engineering, Conservation, Municipal Properties, Fire, Health, Water District, Recreation, TAC

FROM: Don P. Johnson, Town Manager

SUBJECT: Site Plan Special Permit 03/03/05-401 - "Not Your Average Joes, Inc." - 301 Main Street

Enclosed please find Site Plan application of "Not Your Average Joes, Inc.", under Section 10.3 of the zoning bylaw for approval of a Special Permit for a 200 seat restaurant in existing building located at 301 Main Street, Acton.

Please send your comment, with copies to Garry Rhodes by April 1, 2005.

D.P.J.
Don P. Johnson, Town Manager 



D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

Attorneys at Law

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March 3, 2005

VIA HAND DELIVERY

Board of Selectmen
c/o Town Clerk
Town of Acton
Main Street
Acton, MA 01720

Re: Application of Not Your Average Joe's, Inc., for a Restaurant Special Permit and Site Plan Approval (if required) for 301 Main Street, Acton (Acton Plaza)

Dear Members of the Board:

Please be advised that this office represents Not Your Average Joe's, Inc.

In connection with the above referenced matter, enclosed please find a check made payable to the Town of Acton in the amount of \$250.00, together with twelve copies of an application pursuant to Sections 3.5.5 and 10.3 of the Zoning Bylaw for a special permit for a proposed restaurant to be located at 301 Main Street (Acton Plaza) in the space formerly occupied by the Woodworkers Warehouse Store. ("Locus"). Although the Applicant does not believe that site plan approval is required pursuant to Section 10.4.1.2, as Locus is already developed, we are also enclosing twelve (12) copies of an application for Site Plan Approval, if required. If site plan approval is deemed required, the applicant requests that the requirements of the site plan rules and regulations be waived to the extent not provided for herein as the site is already developed. The applications are submitted herewith as Exhibit A.

Also enclosed please find a certified abutters list as Exhibit B.

1. Use Description.

Not Your Average Joe's, Inc., currently operates 9 upscale casual restaurants in Arlington, Beverly, Dartmouth, Lexington, Methuen, Needham, Newburyport, Randolph and Watertown. The applicant is proposing to open a Not Your Average Joe's restaurant at 301 Main Street, Acton, (Acton Plaza I) in the space formerly occupied by the Woodworker's Warehouse Store. Locus is in the Kelley's Corner zoning district and the proposed restaurant space contains approximately 6,103 square feet.



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Attorneys at Law

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The proposed restaurant will contain 200 seats and will serve lunch and dinner. Proposed hours of operation are 11:30 a.m. to 10:00 p.m., Monday through Thursday; 11:30 a.m. to 11:00 p.m., Friday and Saturday; and 12:00 noon to 9:00 p.m., Sundays. In addition to seating patrons, the entire menu will be available for take-out. It is expected that the restaurant will have 75 employees.

The proposed restaurant is not expected to generate, store, use or dispose of hazardous wastes or materials.

2. List of Other Permits Required

In addition to the enclosed applications, Not Your Average Joe's, Inc. will be filing the following additional permit applications:

- a. Alcoholic Beverages License - Board of Selectmen - to be filed
- b. Common Victualer's License - Board of Selectmen - to be filed
- c. Food Service Permit - Board of Health - to be filed
- d. Sign Permit - to be filed

3. Plans

The following plans are included with this application:

- a. Plan prepared by Edens & Avant entitled "Acton Plaza I & II, 371-395 Massachusetts Avenue, Acton, MA - Boston MSA," showing square footages of the uses in the Acton Plaza. (Exhibit C.)
- b. Plan of land entitled "Plan of Land in Acton, Mass. Owned by Acton Enterprises, Inc." dated October 6, 1970, last revised September 3, 1971, by Acton Survey & Engineering, Inc, recorded in the Middlesex South District Registry of Deeds as Plan No. 1222 of 1971, Book 12098, Page 001, being the most recent recorded Lot Plan. (Exhibit D).
- c. Plan entitled "ALTA/ACSM Land Title Survey, American Surveying Company of Boston, Inc., Prepared for E&A Northeast Limited Partnership" dated March 26, 1998, showing layout of existing improvements and easements. (Exhibit E.)



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d. Floor Plan entitled "Not Your Average Joe's, Main Street, Acton, MA 01720."
(Exhibit F).

e. Locus Plan. (Exhibit G).

4. Proposed Waste Disposal Facilities

The proposed restaurant will be served by a dumpster for solid waste to be located at rear of building. Locus is connected to sewer. A grease trap or tank will be added if required by the Board of Health in connection with issuance of a Food Service Permit..

5. Traffic.

The traffic impact of the proposed use has been calculated by Erik R. Maki, P.E., P.T.O.E., of Rizzo Associates. His letter, dated February 21, 2005, indicating that no traffic study would be required if site plan approval is deemed applicable, is submitted as Exhibit H.

6. Parking.

Reference is made to the parking calculations submitted herewith as Exhibit K.

For the purposes of determining compliance with the parking requirements of the Zoning Bylaw, we have treated the upper plaza, where the proposed restaurant is to be located, as the appropriate unit for measurement. This includes part of Lot A-2 (where Middlesex Savings Bank is located), Lot B-4 (where the main upper plaza building is located) and Lot B-3, which is subject to an exclusive parking easement for the benefit of Lot B-4 (see Exhibit I), all as shown on the plan at Exhibit D. This treatment is consistent with prior applications for site plan review and special permit uses (see #09/28/89 -0316 - Middlesex Savings Bank, and #01/14/94-0343 - Dunkin Donuts).

According to the ALTA/ACSM Plan at Exhibit E, the upper plaza contains 169 parking spaces.



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Based on the square footages set forth in the Edens & Avant Plan (Exhibit C) and treating the upper plaza as a "shopping center with two or more retail stores" under Section 6.3.1.7 of the Zoning Bylaw, and counting the proposed restaurant separately under Section 6.3.1.10 of the Zoning Bylaw, 100 parking spaces are required for all of the upper plaza uses, including the proposed restaurant. Thus, even after the proposed restaurant, there will be 69 excess parking spaces. See Parking Calculations, Calculation 1.

Alternatively, we have also provided parking calculations on a tenant by tenant basis for the upper plaza. See Parking Calculations, Calculation 2. This indicates that there will be 54 excess parking spaces after the proposed restaurant.

Please let me know if you require any further information.

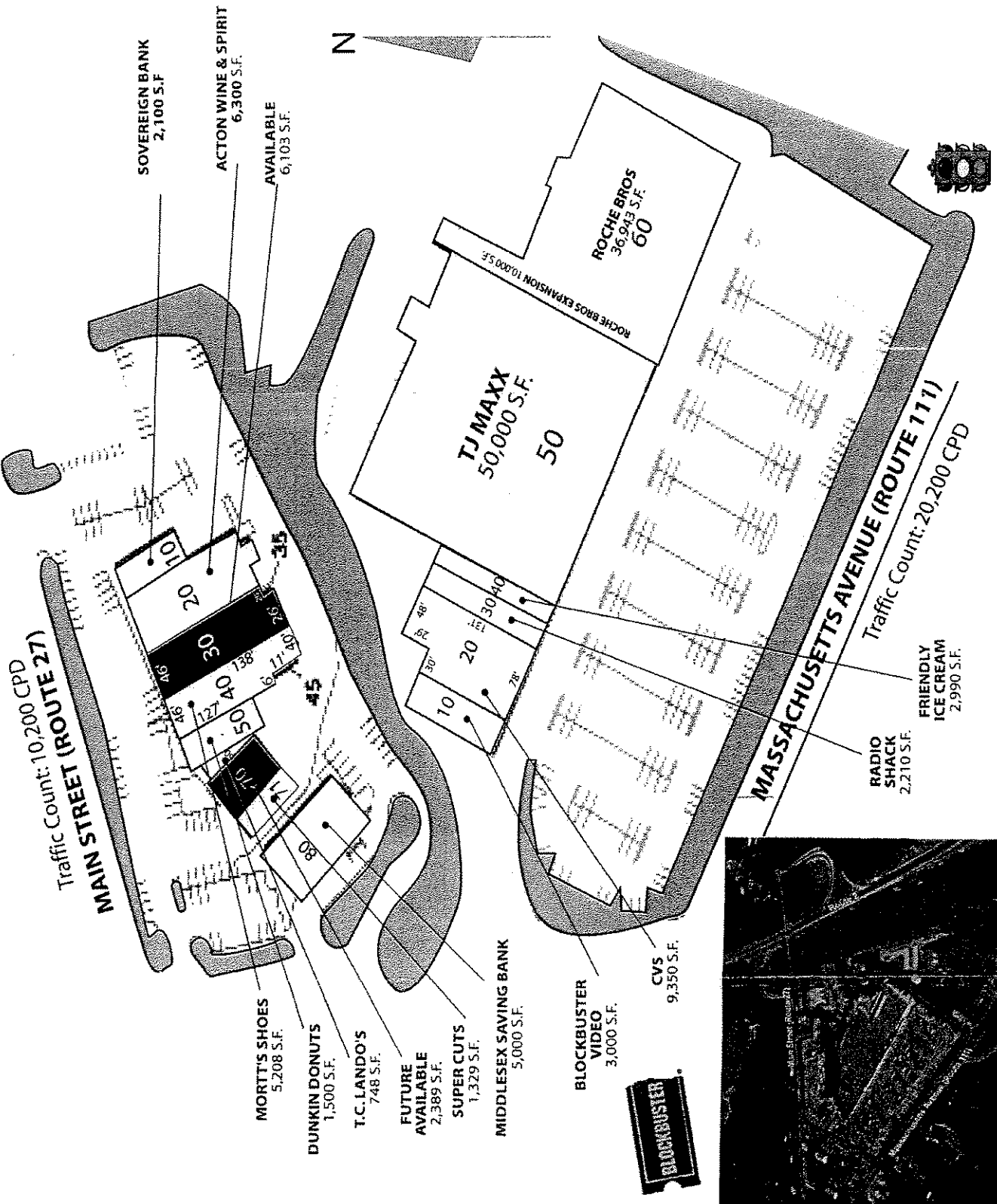
Very truly yours,
NOT YOUR AVERAGE JOE'S, INC
By its Attorneys
~~D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.~~

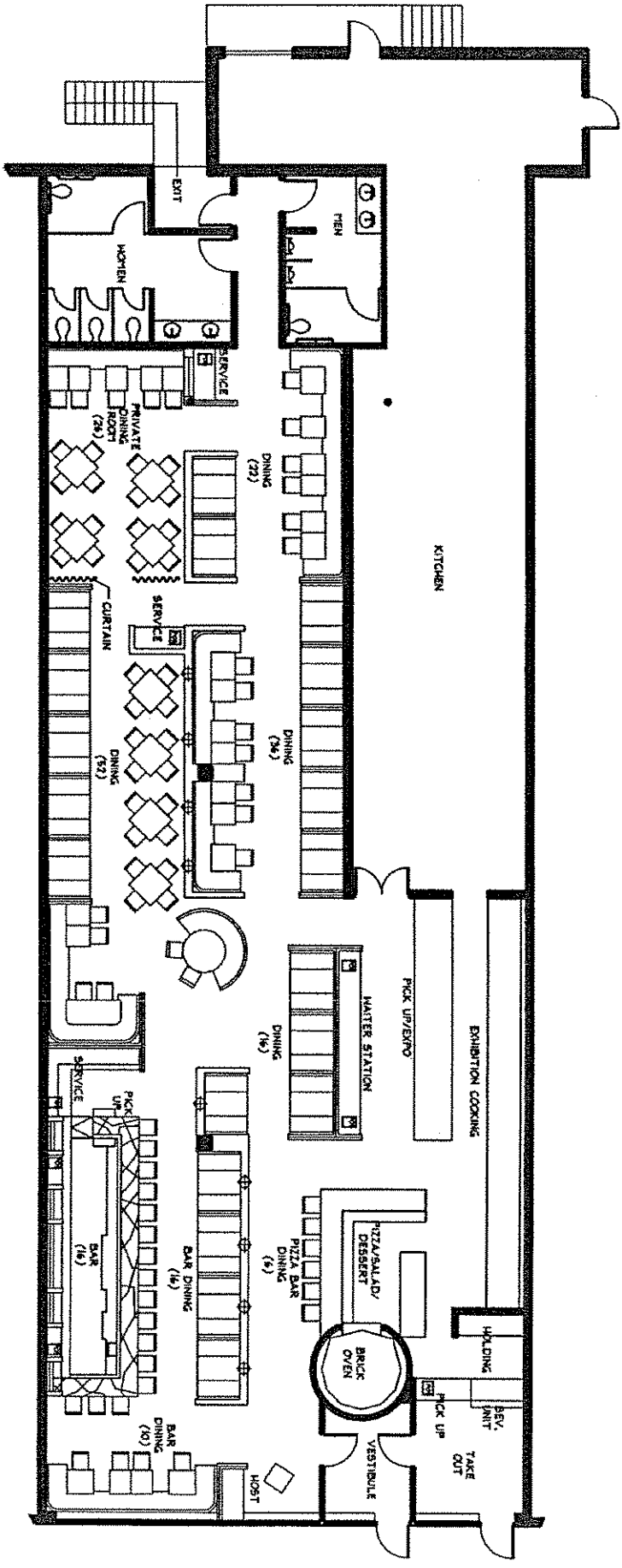
By: 

F. Alex Parra
e-mail: faparra@dlpnlaw.com

FAP/hs

cc: Client





SEATING COUNT	
BAR	16
BAR DINING	26
PIZZA BAR DINING	6
DINING	126
PRIVATE DINING ROOM	26
TOTAL SEATING	200

Niemitz
Design Group

NOT YOUR AVERAGE JOE'S
MAIN STREET
ACTON, MA 01720

FURNITURE PLAN
FEBRUARY 10, 2005